

Diligence Helps Combat Fiscal Fraud

by Ellen Bessner

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James Smith, Jim Smith and Jimmy Smith are all born on Aug. 27, 1962, and they are all engineers, but only one has been tried and found guilty of drug trafficking. How can advisors and dealers identify their clients and report any potentially politically exposed foreign persons ("PEFPs") to FINTRAC pursuant to obligations under the new Bill C-25 amended regulations to the Proceeds of Crime and Money Laundering and Terrorists Financing Act?

Dealers have been turning to suppliers of commercially prepared lists to compare client names in an attempt to identify PEFPs. However, they have found this exercise to be very time consuming, delaying the opening of client accounts, as they are bogged down with numerous "false positives" whenever clients' names match names on commercial lists, which contain hundreds of thousands of names.

Here are a few suggestions to reduce these false positives so accounts can be opened without unnecessary delay, allowing advisors to get on with their job and keep potential clients from competing dealers who open accounts more quickly and with less aggravation.

To eliminate, or at least reduce, false positives:

Step 1: Get good clean client information: The adage "garbage in, garbage out" applies when using name-matching software, says Bob Rosen, an AML Solution Specialist at Dow Jones & Company, Inc., a commercial supplier of PEFPs lists. Mr. Rosen strongly suggests institutions wishing to minimize false positives should eliminate closed accounts, match up clients holding multiple accounts and emphasize recent client information instead of outdated client information.

However, Mr. Rosen admits, "This is easier said than done as the collection is prone to human error both in regard to the name the client provides to the advisor opening the account and common typographical errors." For example, a birth certificate may indicate a client's name is Ronald Maxwell Smith, but the client is known as Larry Smith.

Clear policies and training to ensure policies are adhered to can substantially increase the cleanliness of the information, thus reducing false positives. Before clients' names can be compared with watch lists, capturing accurate client information can have a significant effect downstream on institutions' compliance efforts.

Step 2: Define PEFP for your organization The regulations do not provide a precise definition of PEFPs, leaving it to the particular dealer to establish its own definition. This is a challenge for dealers who do not want to be the Guinea pig in landmark court decisions to establish definitions and clarify obligations. To define the particular organization's exposure, each must identify, within their particular client base, the profile of a PEFP.

I must admit that even using the word "profiling" makes my skin crawl, as it implies racial profiling, which in fact is precisely what is expected.

But establishing a definition of PEFPs for the organization is a fundamentally important exercise because if the definition is too broad, then potentially good clients may be turned away.

As well, the exercise of reviewing each false positive will increase costs substantially. Having to narrow a definition will heighten the organization's exposure to penalties and fines after the damage to reputation associated with regulatory prosecutions.

Step 3: Name-matching software Enlist the assistance of powerful name-matching software that can efficiently match commercial watch lists with your own client lists. Although there are several commercially available alternatives, choose the one that best fits your organization's needs. Ensure the software correlates with your own system and with the client information that you gather.

For example, if there is no gender field, this may increase the number of false positives. For example, my high school friend Allen Forbes, a woman, would be wrongly identified along with all male Allen Forbes.

Another issue to examine is the groups of clients your organization services. If you service a client group in which name order is reversed from the name order generally used in North America, any list that does not accommodate this possibility may overlook names that should be identified, exposing the organization to regulatory penalties, fines and bad publicity.

Step 4: Watch lists Watch lists are supplied by commercial companies which search global resources to determine who might potentially be a PEFP. The key is to ensure the supplier is committed to maintaining an accurate and current list that can be fed into your name-matching software.

The following questions should be asked and answered by all suppliers interviewed:

What information and criteria are used to capture names on the PEFP list? Do the lists identify whether a PEFP includes a traffic court judge in Connecticut as well as a chief justice in an underdeveloped country?

Does the list have the data elements that are used by your name-matching software? If your software uses date of birth to eliminate matches, it would seem reasonable that the watch list providers would tell you how many profiles include date of birth. What other factors does your software use and how completely are these included in the watch list?

Is the list sufficiently narrow, so as to not include every small-town mayor or even councillors from large cities, yet broad enough to cover all positions of political persuasion contemplated by the regulations?

How often is this list updated and what sources are used to ensure the list remains current?

While there is no way to eliminate all false positives, organizations can reduce them substantially by following these steps, resulting in fewer aggravated clients, and advisors efficiently and expeditiously opening client accounts while still fulfilling legal and regulatory obligations.

Moreover, the risks of substantial penalties for noncompliance will be red